

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MARC KEATING,

Plaintiff,

v.

PITTSTON CITY HOUSING  
AUTHORITY,

Defendant.

3:17-CV-465  
(JUDGE MARIANI)

FILED  
SCRANTON

MAR 21 2018

PER                       
DEPUTY CLERK

ORDER

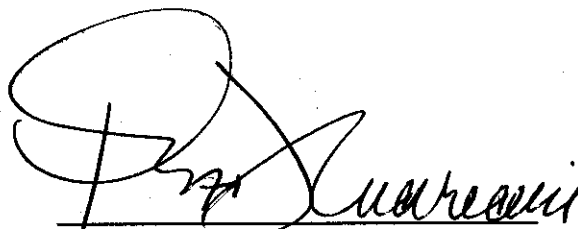
AND NOW, THIS 21<sup>ST</sup> DAY OF MARCH, 2018, upon consideration of

Defendant's Motion to Dismiss, (Doc. 17), **IT IS HEREBY ORDERED THAT** the Motion is

**GRANTED AS FOLLOWS:**

1. Defendant's Motion is **GRANTED** with respect to Plaintiff's claim for compensatory damages for his ADA retaliation claim (Count II).
2. Defendant's Motion is **GRANTED** with respect to Plaintiff's demand for a jury trial for his ADA retaliation claim (Count II).
3. Defendant's Motion is **GRANTED** with respect to Plaintiff's claims brought under the FMLA (Counts V and VI). The dismissal of Counts V and VI, however, will be **WITHOUT PREJUDICE** to Plaintiff's right to amend his complaint as it pertains to those claims. If Plaintiff chooses to amend his complaint, he is on notice that his amendment must contain specific factual allegations that establish how, under the

Enterprise test and the FMLA regulations, the City of Pittston and Defendant are joint employers with respect to Plaintiff's employment.



Robert D. Mariani  
United States District Court Judge